

NOT FOR PUBLICATION

NOS. 24715 & 25256

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JESSE PEAPEALALO, also known as Ges Eddie
Marroquin and Eddie Soto, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 01-1-1323)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Foley and Nakamura, JJ.)

Defendant-Appellant Jesse Peapealalo (Peapealalo), also known as Ges Eddie Marroquin and Eddie Soto, appeals the Second Amended Judgment filed on July 15, 2002 in the Circuit Court of the First Circuit (circuit court).¹

On appeal Peapealalo contends the circuit court (1) erred by finding he voluntarily made a statement to Officer Matsuyama² and (2) abused its discretion by sentencing him to an extended term of imprisonment.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to

¹ The Honorable Derrick H.M. Chan presided.

² In support of this argument in his opening brief, Peapealalo cites to State v. Johnson, 96 Hawai'i 461, 32 P.3d 105 (2001). Johnson is an unpublished summary disposition order. Unpublished summary disposition orders may not be cited in any action or proceeding except when the unpublished disposition order "establishes the law of the pending case, res judicata, or collateral estoppel, or in a criminal action or proceeding involving the same respondent." Hawai'i Rules of Appellate Procedure Rule 35(c). Counsel on appeal is hereby warned that failure to comply with the Hawai'i Rules of Appellate Procedure in the future will result in sanctions against him.

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the arguments advanced and the issues raised by the parties, we resolve Peapealalo's points of error as follows:

(1) The circuit court did not err by finding that Peapealalo voluntarily made statements to Officer Matsuyama. State v. Naititi, 104 Hawai'i 224, 235-36, 87 P.3d 893, 904-05 (2004).

(2) The circuit court did not abuse its discretion in sentencing Peapealalo because the court did not sentence Peapealalo to an extended term of imprisonment under Hawaii Revised Statutes (HRS) § 706-661 (Supp. 2003); the court sentenced Peapealalo as a repeat offender under HRS § 706-606.5(1)(a)(iii) (Supp. 2003).

Therefore,

IT IS HEREBY ORDERED that the Second Amended Judgment filed on July 15, 2002 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, August 24, 2004.

On the briefs:

Michael G.M. Ostendorp
and Shawn A. Luiz
(Law Office of Michael
G.M. Ostendorp)
for defendant-appellant.

Acting Chief Judge

Alexa D.M. Fujise,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.

Associate Judge

Associate Judge